

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2001-006342

05/20/2010

HON. PAMELA GATES

CLERK OF THE COURT

E. Toledo

Deputy

IN RE THE MATTER OF
CYNTHIA LEE THIMMESCH

TERI D MCCALL

AND

PETER ALLAN THIMMESCH

PETER ALLAN THIMMESCH
11337 STONEHOUSE PL
POTOMAC FALLS VA 20165

I. INTRODUCTION

During an evidentiary hearing held on March 12th, April 12th, and April 15, 2010, the Court heard evidence and testimony regarding Respondent Peter Allan Thimmesch's (hereinafter referred to as "Father") Motion to Modify Child Custody.¹

II. HISTORY OF THE CASE

The parties were divorced by Decree of Dissolution entered April 11, 2002. The Petitioner Cynthia Lee Thimmesch (hereinafter referred to as "Mother") and Father have two children: Andrew Bruss Thimmesch (DOB: 6/3/1993) and Rebecca Palen Thimmesch (DOB: 2/27/1996). The Court initially awarded the parties joint legal custody of their children, designating Mother as the primary residential parent and granting Father parenting time. Mother was granted final decision-making authority on medical and education decisions regarding the children.

¹ Also before the Court is Father Motion to Modify Child Support. Given the quantity of evidence and testimony presented by the parties on the issue of child custody, the Court informed the parties that it would set a hearing on the issue of child support after issuing its ruling on Father's Motion to Modify Child Custody.

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In March 2006, the Court found a substantial and continuing change in circumstances. Specifically, the Court found that the parents have demonstrated a past, present, and future inability to cooperate in decision-making about the children to the extent required by an order of joint custody. The Court found that Father engaged in a pattern of behavior that has sabotaged Mother's decision making and adversely affected the physical and emotional well-being of the children. The Court further found that a joint custody order was not feasible and has negatively impacted the children. In supporting its decision, the Court found that Father has harassed Mother, alienated the children from Mother, failed to comply with the Court's orders, and negatively impacted the children's adjustment to home, school, and community.

In August 2006, the Court ordered that the parties communicate using a civil tone without the use of hostile, insulting, disrespectful or inflammatory language in any email or fax. The Court also expressly found that the level of hostility between the parents is not in the children's best interests. Despite this finding, Father continued to send inappropriate, hostile, insulting emails to Mother and the other professionals involved in this case. In an attempt to stop Father's inappropriate communication with Mother and the other professionals involved in the case, the Court warned the parties that it would sanction any party who uses hostile, insulting, disrespectful or inflammatory language in any email or fax by imposing one or more of a list of enumerated sanctions.

Certainly a review of Father's email communication in 2006 demonstrates a complete lack of self-restraint when engaging in communication with either Dr. Toma or Mother. Although Father's more recent communication lack the quantity of egregiously inappropriate remarks previously contained in Father's communications, Father's recent emails continue to lack the level of civility expected from co-parents. Father is a successful businessman, and the Court finds it perplexing that Father is unable to review an email to ensure that it is free from comments that are degrading, accusatory, inflammatory, and/or demeaning. The Court has cautioned Father numerous times regarding his shockingly inappropriate emails. Although Father's more recent emails often include factual information about the children, particularly Andrew, his emails continue to include unnecessary accusations and inflammatory statements.

The Court will not restate the events that have occurred since the March 2006 except to summarize that the Court continued in its attempts to encourage and require Father to discontinue the mistreatment of Mother and the various professionals involved in this case. In August 2009, Mother filed a Petition to Modify Parenting Time and an Amended Petition for Order to Show Cause RE: Contempt (Child Support and Medical Reimbursement). In her Petition to Modify, Mother asked, *inter alia*, the Court to re-evaluate the parenting schedule for Andrew. In October 2009, the Court ordered, on a temporary basis, that Andrew was allowed to relocate to Father's home in Virginia and attend Dominion High School for the 2009-2010

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academic year. Although the Court modified physical custody, the Court did not modify legal custody. Father is now seeking an order that the Court grant him sole legal custody of the parties' minor children and designate him as the primary residential parent of both Andrew (who is currently living with Father) and Rebecca (who is currently living with Mother).

III. APPLICABLE LAW

This Court evaluated child custody in accordance with the relevant factors set forth in Arizona Revised Statutes Sections 25-403, 403.01, 403.03, and 408. *See Funk v. Ossman*, 150 Ariz. 578, 581 (App.1986) (recognizing the "firmly established principle" in child custody cases "that at all levels, at all times and in all forums, the welfare and best interest of the child is of prime and overriding importance as measured by the particular facts and circumstances of each case before the courts."). Although neither Section 403 nor Section 411 requires it, case law requires a showing of a "change in circumstances materially affecting the welfare of the child" before a custody decree may be modified. *Hendricks v. Mortensen*, 153 Ariz. 241, 243 (App.1987). Thus, the Court also evaluated whether there has been a change in circumstances materially affecting the welfare of the children.

Also of relevance to the Court's decision is Arizona Revised Statutes Section 25-403.03. Section 25-403.03(A) states, notwithstanding Subsection 403.03(D), joint custody shall not be awarded if the Court makes a finding of the existence of significant domestic violence pursuant to Section 13-3601 or if the Court finds by a preponderance of the evidence that there has been a significant history of domestic violence. *See* A.R.S. § 403.03(A) (Emphasis added).

The Court also notes that Arizona Revised Statutes Sections 25-403.03(D) is relevant to its analysis. Specifically, Subsection 403.03(D) states, if the Court determines that a parent who is seeking custody has committed an act of domestic violence against the other parent, there is a rebuttable presumption that an award of custody to the parent who committed the act of domestic violence is contrary to the child's best interests. *See* A.R.S. § 403.03(D) (Emphasis added). Subsection D also states for purposes of this Subsection, a person commits an act of domestic violence if that person does any of the following: 1) intentionally, knowingly or recklessly causes or attempts to cause sexual assault or serious physical injury; 2) places a person in reasonable apprehension of imminent serious physical injury to any person; or 3) engages in a pattern of behavior for which a court may issue an ex parte order to protect the other parent who is seeking child custody or to protect the child and the child's siblings. Here, Mother alleges that Father has repeatedly engaged in "domestic maltreatment." The Court previously agreed that Father was responsible for "domestic maltreatment" of Mother. Although Father's historic communication with Mother was shockingly inappropriate, the Court finds that Father's conduct does not constitute significant domestic violence. Even to the extent that Mother could prove that Father's alleged "domestic maltreatment" constitutes domestic violence as defined by the

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statute, Father has rebutted the presumption that awarding joint custody is contrary to the children's best interests. *See* A.R.S. § 403.03(D).

Notably, the Court continues to have concern that the parents will be unable to cooperate in decision-making about the children to the extent required by an order of joint custody, the Court is unwilling to grant Father sole custody. Simply put, the Court's concern that Father will misuse his rights as a sole custodian outweighs the Court's apprehension that a joint custody order will negatively impact the children.

Also relevant to this Court's evaluation is Arizona Revised Statutes Section 25-408. Arizona Revised Statute Section § 25-408(G) provides: "The Court shall determine whether to allow the parent to relocate the child in accordance with the child's best interests. The burden of proving what is in the child's best interests is on the parent who is seeking to relocate the child. To the extent practicable the Court shall also make appropriate arrangements to ensure the continuation of a meaningful relationship between the child and both parents." Arizona Revised Statutes Section § 25-408(I) directs the Court to determine the child's best interests in accordance with the factors prescribed under Section 25-403 and eight additional factors.

IV. CUSTODY, PARENTING TIME AND RELOCATION

As stated above, on March 2, 2006, the Court awarded Mother sole legal custody of the parties' minor children. After an incident in which the parties' oldest child unilaterally left Mother's physical custody, the Court had a hearing and ordered, on a temporary basis, the minor child Andrew Thimmesch shall be allowed to relocate to Father's home in Virginia and attend school at Dominion High School for the 2009-2010 academic school year. After considering the relevant factors, evidence and testimony, the Court finds that Father has met his burden to prove that relocation is in Andrew's and Rebecca's best interest. In reaching this conclusion, the Court considered the following:

1. The wishes of the children's parent or parents as to custody. Mother is seeking sole custody. Father is seeking sole custody.
2. The wishes of the children as to the custodian. Both children love Mother and Father. Despite the children's love of Mother, they both express a preference, at this time, to reside with Father in Virginia.
3. The interaction and interrelationship of the children with the children's parent or parents, the children's siblings, and any other person who may significantly affect the children's best interest. The parties both agree that

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Andrew should live with Father in Virginia. Father testified since moving to Virginia, Andrew has made significant strides forward in his education and emotional stability. Andrew has a healthy relationship with Father's wife and his half-siblings. The testimony suggested that Andrew has also re-established a healthy relationship with his sister, Rebecca. Mother and Andrew currently have a tense relationship. Despite Father's testimony regarding his recent attempts to ensure a healthy relationship between Mother and Andrew, the Court is confident that Father's historic behaviors have negatively affected Andrew's relationship with Mother. Successful co-parents give their children permission and encouragement to love the other parent and succeed when in the physical care of the other parent. Here, the Court finds that the children are unreasonably torn between Mother and Father: feeling as though Mother wants them to fail when in Father's physical care and feeling Father's condemnation of Mother's decisions when the children are in her care. The parties should focus on their children, encouraging each child to love Mother and Father and succeed in their friendships, relationships, activities, and education regardless of which parent has physical custody at the time. Father must discontinue his inappropriate comments to Mother and stop rationalizing his hostility towards Mother. Similarly, the Court finds that Mother must take responsibility for her relationship with Andrew. Mother testified that she loves Andrew and has tried to foster a loving and healthy relationship. Mother has struggled with the physical distance between Mother and Andrew; however, rather than blame Father, Mother must reach out to Andrew. Simultaneously, Father must give the children permission to have a healthy and loving relationship with Mother and Mother must give the children permission to have a healthy and loving relationship with Father.

4. The child's adjustment to home, school and community. Father testified that Andrew is well-adjusted to Virginia. Rebecca is well-adjusted to Arizona, but seeks the opportunity to join her brother in Virginia.
5. The mental and physical health of all individuals involved. The parties disagree about medical treatment of their minor children, particularly Andrew. Mother acted reasonably in securing treatment for the parties' minor child. Although Father was genuinely concerned about Andrew's past medical treatment, his attempts to modify and discuss treatment were unreasonably offensive and ineffective. Consequently, Father bears a share of the responsibility for his lack of meaningful input into Andrew's

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medical treatment. Although Father disagrees with Andrew's past medical treatment, the Court finds that Mother consistently acted with Andrew's best interests at heart. The Court also finds that Father's recent involvement in Andrew's medical care has been with Andrew's best interests at heart. The Court cautions that Father must continue to act prudently to ensure that he does not dismiss Mother's input and opinion when it relates to the minor children, particularly when dealing with their medical care. Similarly, Mother should not assume that Father's recommendation, which may differ from Mother's, is simply offered to "control" or undermine Mother's opinion.

6. Which parent is more likely to allow the child frequent and meaningful continuing contact with the other parent. The Court has significant concern regarding Father's willingness to ensure that the children have frequent and meaningful continuing contact with Mother. The Court finds that Father often considers events more important than time with Mother, e.g., a chemistry or history class, a camp, or an internship. For example, rather than simply offer the children options that allow them to comply with the Court order or explaining to the children that he would not entertain an option that would minimize or eliminate Mother's parenting time, Father actively explores or passively allows the children to entertain options of classes, camps, trips, or other activities, while being fully aware that their decision will negatively impact Mother's parenting time. As a result, Mother's desire to spend parenting time with the children will result in the children believing they have missed or lost some opportunity. Thus, Mother's active attempts to spend time with the children results in the children feeling resentment toward Mother for missed opportunities. The Court finds this behavior is contrary to the best interests of the minor children and although passive, is destructive to Mother's relationship with the minor children.
7. Whether one parent, both parents, or neither parent has provided primary care of the child. Mother has provided primary care of Rebecca and Andrew. Father recently has had physical custody of Andrew.
8. The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody. There are no agreements.
9. Whether a parent has complied with Chapter 3, Article 5 of Title 25. (Parent Education Program). Both parties have complied.

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10. Whether either parent was convicted of an act of false reporting of child abuse or neglect under Arizona Revised Statutes Section 13-2907.02. At this time, the Court notes that neither parent has been convicted of an act of false reporting of child abuse or neglect under Arizona Revised Statutes Section 13-2907.02.
11. Whether there has been domestic violence or child abuse as defined in A.R.S. § 25-403.03. Mother provided testimony to allege that Father has engaged in domestic maltreatment of Mother. As stated above, the Court does not find domestic violence as defined in Section 25-403.03.
11. The agreement of lack of an agreement by the parents regarding joint custody. Mother seeks to retain sole legal custody. Father seeks sole custody.
12. Whether a parent's lack of agreement is unreasonable or is influenced by an issue not related to the best interests of the children. The Court finds that the parties' lack of agreement is not remotely related to the best interests of the minor children; rather, the parties' unwillingness or alleged inability to co-parent arises from their relationship with one another.
13. The past, present and future abilities of the parties to cooperate in decision-making about the child to the extent required by the order of joint custody. The Court recognizes that the parties' history may make joint decision-making more difficult; however, the Court is aware the parties are mature, intelligent parents who unconditionally love their children. The Court finds when the parties set aside their relationship with one another; they are capable of co-parenting, even if co-parenting results in relying heavily on a parenting coordinator. Either party may petition for the appointment of new parenting coordinator. The Court recognizes the parties' history with their parenting coordinator and finds that Dr. Toma has assisted the parties with numerous issues. Moreover, the Court's willingness to entertain a Petition for New Parenting Coordinator does not suggest any improper action or bias on the part of Dr. Toma. Rather, it reflects the reality that the parties have moved into a different phase of their relationship with one another and with their children. If the parties request a new Parenting Coordinator, that Coordinator must be advised of Father's past behavior to understand the impact of any future behavior by Father to undermine Mother's relationship with the minor children.

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14. Whether the joint custody arrangement is logistically possible. Although joint custody may be difficult, the Court finds that the parties will benefit from both parents being actively involved in decision-making. If one party fails to consult the other party regarding major decisions, that may be grounds to modify custody.
15. Whether relocation is being made or opposed in good faith and not to interfere with or frustrate the relationship between parent and children. The Court finds that Father's request for relocation arises from the desire of the children to move to Virginia. Mother testified that she believes Father is attempting to minimize and frustrate her relationship with the minor children. As noted above, the Court finds validity to Mother's concern. However, the Court also notes that the minor children have expressed a clear and unequivocal desire to reside with Father in Virginia; therefore, Mother's refusal to allow the children to spend additional time with Father, will likely result in the children developing further feelings of resentment towards Mother. After the children move to Virginia, both parents will need to work actively to ensure that the children maintain a relationship with Mother. Father repeatedly testified that he will not discourage the children from communicating with Mother. The Court finds, in this matter, that is simply not sufficient. Father must encourage Andrew and Rebecca to maintain their relationship with Mother.
16. Prospective advantage of the move improving the general quality of life for the custodial parent or the children. The Court finds a probable advantage for the children in moving to Virginia at this time.
17. Likelihood that the parent with whom the children will reside after relocation will comply with parenting orders. The Court has significant concerns regarding Father's actions, including his passive lack of commitment to encouraging the children to foster a relationship with Mother.
18. Whether the relocation will allow a realistic opportunity for parenting time with each parent. Based on the evidence and testimony, this Court concludes that relocation will lessen Mother's realistic opportunity for frequent and meaningful parenting time with her children.

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19. The extent to which moving or not moving will affect the emotional, physical or developmental needs of the children. The Court finds not allowing Rebecca to relocate to Virginia may cause a further deterioration in Rebecca's relationship with Mother. Mother must recognize that she is responsible for maintaining a relationship with Rebecca and Andrew. Mother is the adult and the person who must remain persistent in her efforts to foster (and in the case of Andrew, re-establish) a healthy relationship.
20. The motives and validity of the reasons for moving. The Court finds Father's motives are legitimate and focused on his children's desires and wishes.
21. Effect of the relocation on the children's stability. The Court finds that the relocation will not significantly affect the stability of the minor children.

Applying the relevant statutory factors, including the factors set forth in Arizona Revised Statutes Sections 403, 403.01, 403.03, and 408, the Court concludes that there has been a change in circumstances materially affecting the welfare of the parties' minor children.

IT IS THEREFORE ORDERED:

1. This Court finds that it is in the best interests of the parties' minor child to award Mother and Father joint legal custody of their two minor children.
2. Father shall be the primary residential parent of both Andrew and Rebecca.
3. Mother shall be entitled to the following parenting time with Andrew and Rebecca:
 - a. In 2010, Mother shall have parenting time with Andrew from August 10, 2010 until September 3, 2010.
 - b. In 2010, Mother shall have parenting time with Rebecca until June 30, 2010. Father shall have parenting time with Rebecca from July 1, 2010 until July 31, 2010. Mother shall again have parenting time with Rebecca from August 1, 2010 until August 14, 2010.
 - c. In 2011 and every summer thereafter (until Andrew is emancipated), Mother shall have parenting time with the minor children for nine weeks in the

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summer (starting one week after school ends and continuing until two weeks before school begins in Virginia). Mother's parenting time must conclude two weeks before Andrew and Rebecca are scheduled to start school in Virginia.²

- d. Mother shall also have parenting time with both children on Thanksgiving break in even-numbered years, beginning Tuesday and continuing until Saturday.
 - e. Mother is also entitled to parenting time for one half of the Winter Break. Winter Break is defined to begin on Saturday following Andrew's and Rebecca's release from school for Winter Break and ending on the Saturday immediately prior to the minor children's return to school. Mother will have the first half of Winter Break, which shall include Christmas Eve and Christmas in even-numbered years and Father will have the second the half of the Winter Break in even-numbered years. Father will have the first half of Winter Break, which shall include Christmas Eve and Christmas in odd-numbered years and Mother will have the second the half of the Winter Break in odd-numbered years.
 - f. Mother is also entitled to parenting time for Fall Break in every year. Fall Break is defined to begin on Saturday following the minor children's release from school for Fall Break and ending on the Saturday immediately prior to the minor children's return to school.
 - g. Mother is also entitled to parenting time for Spring Break in every even-numbered year. Spring Break is defined to begin on Saturday following the minor children's release from school for Spring Break and ending on the Saturday immediately prior to the minor children's return to school.
 - h. Father shall pay for 85% of the cost of the children's airfare. Mother shall pay for 15% of the cost of the children's airfare.
4. Each party is entitled to full and unrestricted access to all medical, dental, prescription, and health related records of the children and may secure

² Mother requested that the Court order the parties to participate in Camp Common Ground. The information submitted by Mother suggests that Camp Common Ground involves the minor children and both parents. At this time, the Court is not ordering that the parties participate in Camp Common Ground. Mother may pursue Camp Common Ground for her and Rebecca and/or Andrew. Further, the Court notes that it may order all the parties to participate in Camp Common Ground (or another camp for high conflict families) in the future if high conflict continues between Mother and Father.

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information from and consult with all health care professionals providing care for the minor children. Each party shall keep the other party informed of the names, addresses, and telephone numbers of all such healthcare providers. A parent who attempts to restrict the release of document or information by the custodian without a prior court order is subject to appropriate legal sanction.

5. Each party is entitled to equal, full, and unrestricted access to all school records, teachers, and school officials involved in the children schooling. A parent who attempts to restrict the release of document or information by the custodian without a prior court order is subject to appropriate legal sanction.
6. Both parents shall be listed and identified as contact persons on all school and medical records.
7. In the event of any emergency or urgent circumstance involving the children, the party then having physical custody of the child shall inform the other party of the nature of the emergency or urgent circumstance as soon as is reasonably possible.
8. Each party shall have the right to attend and participate in school conferences and activities, extra-curricular activities, and any other similar event in which parents are routinely invited or permitted to attend, even if said event is during the other party's parenting time.
9. Unless restricted by Court order, each party shall keep the other informed of his/her home address, home telephone number, employer and address, work telephone number, and, if applicable, cellular telephone number and e-mail address. If any of this information changes, the other party shall be informed of the change forty-eight hours in advance, or as soon as possible afterward if advance notice is not possible.
10. The parties shall jointly decide major life decisions concerning their children. Major life decisions include, without limitation: the selection of schools; educational/special educational plans and needs; the selection of healthcare providers; dental and medical plans and needs; medical treatment; mental health plans, needs, and treatment; and, at times, religious training. In making major life decisions concerning the children, each party has an affirmative obligation to (1) confer in good faith with the other party, (2) give equal consideration to the other party's perspective, and (3) work cooperatively with the other party. If the parties decide to seek advice from healthcare professionals or educators, both parties shall be provided with and entitled to such advice before making their decision. If

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the parties cannot agree after making a good faith effort to come to an agreement regarding a particular issue, the parties shall mediate the dispute prior to initiating a proceeding with the Court, except in cases where there is a genuine and imminent threat to the health, safety, or welfare of the children. Given the extremely high level of conflict between the parties related to Andrew's medical treatment, the Court orders, with regard to Andrew's medical treatment, Father shall have "presumptive decision-making authority." This level of authority shall allow Father the right to make a preliminary decision that he shall then communicate to Mother. If Mother believes that Father's decision is contrary to the best interests of the child, she shall have the right to seek review thereof through the Court. Mother shall have the burden to demonstrate that the decision made by Father regarding Andrew's medical treatment is contrary to the child's best interest. It shall not be sufficient for her to demonstrate that an alternative decision may have also been in the interest of the child. Father's presumptive decision-making authority applies only to Andrew's medical treatment. For all other decisions, the parties have joint legal custody with neither party having presumptive or superior decision-making authority.

11. It is in the furtherance of the best interests for the parents to confer and for the views of each parent to be considered. Therefore, to the extent practical, there shall be communication between the parents to address issues related to the children.
12. Neither party shall make derogatory, disparaging, or similarly negative comments about the other party in the presence of the minor children. Neither party shall discuss family law legal proceedings with the children or use the children as messengers for parenting issues.
13. The parties shall not discuss parenting time scheduling with the children until the scheduling is finalized between the parties. The parties shall assure that the children do not overhear conversations or read emails dealing with scheduling of parenting time.
14. Neither parent shall allow either child to read any email, correspondence, report or pleading regarding this case.
15. Specifics of flights shall be decided and agreed upon 30 days before the scheduled parenting time.

V. CHILD SUPPORT

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The Court sets the matter of child support for a three hour Evidentiary Hearing on **August 27, 2010 at 9:00 a.m.** before this division.

Maricopa County Superior Court
Old Court House
125 W. Washington
Courtroom 209
Phoenix, AZ 85003

Failure of a party to appear may result in the Court allowing the party who does appear to proceed by default. Failure of both parties to appear may result in this action being dismissed.

IT IS ORDERED with regard to discovery and disclosure requirements:

1. Both parties shall exchange updated disclosure statements required by Rules 49, 50 and 91, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents and exhibits at least 30 days prior to the hearing.
2. All depositions and discovery contemplated by Rules 49 through 65, Arizona Rules of Family Law Procedure, shall be completed and any motions regarding discovery shall be filed at least 15 days prior to the hearing.
3. Counsel and both parties shall personally meet, face to face, at least 20 days prior to the hearing to conduct settlement discussions, exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.
4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company or business, medical or health care provider, or employer possessing any relevant and discoverable information.

Pursuant to Rule 77(C)(5), Arizona Rules of Family Law Procedure, each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are expected to complete the trial in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least 30 days prior to the hearing setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

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IT IS FURTHER ORDERED that the parties shall file and provide this Division with a copy of a Joint Pre-hearing Statement pursuant to Rule 76, Arizona Rules of Family Law Procedure, no later than 5 days prior to the hearing.

IT IS FURTHER ORDERED that the Joint Pre-hearing Statement shall include the following attachments:

1. A current Affidavit of Financial Circumstances.
2. A current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.
3. If there are disputed custody, access or visitation issues, a specific proposal for custody and visitation by each party.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of hearing, or to timely present the Joint Pre-hearing Statement in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 76(D) and 91(Q), Arizona Rules of Family Law Procedure, including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

IT IS FURTHER ORDERED that, if either party has more than 10 exhibits to be marked, arrangements shall be made with the Clerk of this Division at least 5 days prior to hearing to schedule a time to deliver said exhibits to the Clerk. Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits.

IT IS FURTHER ORDERED that the parties shall indicate in the Joint Pre-hearing Statement which exhibits they have agreed will be admissible at hearing as well as any specific objections that will be made to any exhibit if offered at hearing which is not agreed to be admitted. Reserving all objections to the time of hearing will not be permitted. At the time of hearing all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Joint Pre-hearing Statement shall be summarily admitted.

IT IS FURTHER ORDERED that any party filing a request for findings of fact and conclusions of law pursuant to Rule 82, Arizona Rules of Family Law Procedure, shall submit

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proposed findings of fact and conclusions of law to this Division no later than 20 days prior to trial. Any controverting findings of fact and conclusions of law proposed by the adverse party shall then be submitted no later than 10 days prior to trial.

Counsel and the parties are reminded of their obligation to give prompt notice of any settlement to the Court as required by Rule 70, Arizona Rules of Family Law Procedure. Should the parties reach a full agreement prior to the date of the hearing, the Court will consider a motion to vacate the hearing **ONLY AFTER A SIGNED STIPULATED AGREEMENT IS PRESENTED TO THE COURT.**

NOTE: All court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division five (5) business days before the scheduled hearing.

IT IS FURTHER ORDERED signing this Minute Entry as a formal written order of the Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/S/: PAMELA GATES

THE HONORABLE PAMELA GATES
JUDICIAL OFFICER OF THE SUPERIOR COURT

NOTE: Any change in the paying party's employment and/or any change in the residential address of either party must be submitted to the Clerk's Office, in writing, within 10 days of the change (A.R.S. § 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of Court.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.